

By letter dated April 6, 2006, the Office informed appellant that the evidence submitted was insufficient to establish her claim. Appellant was asked to provide a statement describing her job duties and a comprehensive medical report from her physician which described her symptoms, results of examinations and tests, including nerve conduction studies and electromyography, diagnosis, treatment provided and an opinion with medical reasons on the cause of her condition including whether work conditions contributed. She was given 30 days to respond. By telephone conference on April 11, 2006, appellant described her job duties. In an April 24, 2006 statement, she described her job history with the employing establishment and her upper extremity symptoms.

In an April 14, 2006 report, Dr. Eugene Boling, Board-certified in internal medicine and rheumatology, advised that appellant had been under his care since June 17, 2005. Due to symptoms of ongoing right hand pain and numbness, she had a neurology evaluation with nerve conduction testing on September 21, 2005. Dr. Boling stated that the study confirmed moderately severe right median nerve compression consistent with her symptoms of carpal tunnel syndrome. A surgical release was recommended.

By decision dated June 21, 2006, the Office found that the evidence supported that appellant's duties as a postal clerk required repetitive motion. However, it found that she submitted insufficient medical evidence to establish her claim. The only medical evidence of record was Dr. Boling's report, but he did not address the cause of her condition.

On September 10, 2006 appellant requested reconsideration and submitted a September 21, 2005 nerve conduction study in which Dr. Jeffrey Dean Ries, an osteopathic physician who practices neurology, advised that the study was abnormal with moderately severe median neuropathy at the wrist as seen with carpal tunnel syndrome. On September 25, 2006 the Office denied appellant's reconsideration request.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.²

Office regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift."³ To

¹ 5 U.S.C. §§ 8101-8193.

² *Gary J. Watling*, 52 ECAB 278 (2001).

³ 20 C.F.R. § 10.5(ee).

establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁵ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁷

ANALYSIS -- ISSUE 1

The Board finds that appellant failed to meet her burden of proof to establish that she sustained carpal tunnel syndrome causally related to her federal employment. Appellant submitted a medical report dated April 14, 2006 from Dr. Boling who diagnosed moderately severe right median nerve compression. However, Dr. Boling did not address the cause of the condition. The Board had held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁸ While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.⁹ Dr. Boling provided no

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

⁵ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁶ *Id.*

⁷ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁸ *Willie M. Miller*, 53 ECAB 697 (2002).

⁹ *Patricia J. Glenn*, 53 ECAB 159 (2001).

opinion regarding causal relationship. His report is therefore insufficient to establish that appellant has employment-related carpal tunnel syndrome.

LEGAL PRECEDENT -- ISSUE 2

Section 8128(a) of the Act vests the Office with discretionary authority to determine whether it will review an award for or against compensation, either under its own authority or on application by a claimant.¹⁰ Section 10.606(b)(2) of Office regulations provides that a claimant may obtain review of the merits of the claim by either: (1) showing that the Office erroneously applied or interpreted a specific point of law; (2) advancing a relevant legal argument not previously considered by the Office; or (3) constituting relevant and pertinent new evidence not previously considered by the Office.¹¹ Section 10.608(b) provides that when an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.¹² Evidence or argument that repeats or duplicates evidence previously of record has no evidentiary value and does not constitute a basis for reopening a case.¹³ Likewise, evidence that does not address the particular issue involved does not constitute a basis for reopening a case.¹⁴

ANALYSIS -- ISSUE 2

On her form requesting reconsideration, appellant merely checked that she was requesting reconsideration. She therefore did not allege or demonstrate that the Office erroneously applied or interpreted a specific point of law, or advance a relevant legal argument not previously considered by the Office. Consequently, appellant is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(2).¹⁵

With respect to the third requirement under section 10.606(b)(2), appellant submitted no relevant medical evidence. The underlying issue in this case is whether she established that her diagnosed median nerve compression was caused by her federal employment. This requires the submission of medical evidence addressing the issue of how the claimed condition is causally related to the employment factors identified by the claimant.¹⁶ With her reconsideration request, appellant submitted a nerve conduction study dated September 21, 2005. Dr. Ries did not provide any opinion on the cause of the diagnosed median nerve compression. Evidence that

¹⁰ 5 U.S.C. § 8128(a).

¹¹ 20 C.F.R. § 10.606(b)(2).

¹² 20 C.F.R. § 10.608(b).

¹³ *Helen E. Paglinawan*, 51 ECAB 591 (2000).

¹⁴ *Kevin M. Fatzner*, 51 ECAB 407 (2000).

¹⁵ 20 C.F.R. § 10.606(b)(2).

¹⁶ *Solomon Polen*, *supra* note 4.

does not address the particular issue involved does not constitute a basis for reopening a case.¹⁷ Appellant therefore did not submit relevant and pertinent new evidence not previously considered by the Office. The Office properly denied her reconsideration request.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty causally related to factors of employment. The Board further finds that the Office properly refused to reopen appellant's case for further consideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a).¹⁸

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 25 and June 21, 2006 and November 8, 2005 be affirmed.

Issued: May 7, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹⁷ *Id.*

¹⁸ The Board notes that appellant submitted new evidence with her appeal to the Board. The Board cannot consider this evidence, however, as its review of the case is limited to that evidence which was before the Office at the time it issued its final decision. 20 C.F.R. § 501.2(c). Appellant retains the right to request reconsideration with the Office.